

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6018 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

MAKWANA HARIBHAI DEVSIBHAI

Appearance:

MR HS MUNSHAW for Petitioner

SERVED for Respondent No. 1

MR DA BAMBHANIA for Respondent No. 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 23/12/97

ORAL JUDGEMENT

1. Challenge has been made by the petitioner-Corporation in this special civil application to the order of the controlling authority passed under the Payment of Gratuity Act and the order of the appellate authority confirming the order of the controlling authority.

2. The authorities below have decided that the respondent-workman is entitled for Rs.19735/- as an amount of gratuity and not Rs.15061/- as determined by the petitioner-Corporation.

3. The case of the petitioner-Corporation is that the period of leave not decided could not have been counted towards the qualifying services of the respondent-workman for the purpose of determination of the amount of gratuity.

4. However, the learned counsel for the petitioner fairly submitted that it has not produced before the authorities below any documentary evidence in support of the fact that the leave of the respondent-workman was not sanctioned. It is also not the case of the petitioner before the authorities below that the respondent-workman has no leave in his leave account. The respondent-workman has rendered total services of more than 27 years and during this period it is difficult to accept that the leave would not have been there in his leave account. The leave period is said to be of 1981-82 and the respondent-workman retired in the year 1995. This material question remains unexplained satisfactorily by the counsel for the petitioner. The authorities below have not committed any error in deciding the matter in favour of the respondent-workman, which calls for any interference of this Court sitting under Article 226 or 227 of the Constitution of India.

5. In the result, this special civil application fails and the same is dismissed. Rule discharged.

zgs/-